IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

Review Petition No.41 of 2007

In

Civil Writ Petition No.7805 of 2003

Adarsh Nagar Shramik Co-op.
Housing Society Ltd. & ors. Petitioners

Vs.

Prsident, MHADA & ors. Respondents

Ms.Jyoti Chavan for petitioners.

Ms.Prachi Tatake i/b. Mr.R.A.Thorat for resp.no.3.

CORAM: B.H.MARLAPALLE & V.M.KANADE,JJ.

April 13, 2007.

P.C.

. Heard Ms.Chavan, the learned counsel for the petitioners. Writ Petition No.7805 of 2003 was allowed to be withdrawn with liberty to file a civil suit, if so advised, by our order dated 8/4/2004. The very same Society filed Writ Petition No.3021 of 2005 on the Original Side of this Court and it was contended that when Writ Petition No.7805 of 2003 was disposed by this Court, the petitioners were not aware of the Government Resolution dated 20/12/1992

and which they came to know on receipt of the letter dated 7/12/2004 from the Municipal Corporation of Greater Mumbai. While allowing Writ Petition No.3021 of 2005 to be withdrawn by the order dated 9/1/2007, this Court observed that the petitioners being aware of the Government Resolution dated 20/12/1992 subsequently would not justify filing the fresh petition and, therefore, the petition was allowed to be withdrawn with liberty to file a review petition in Writ Petition No.7805 of 2003. Hence this review petition.

. The learned counsel for the petitioner - Society states that the petition could be transferred on the Original Side as it was initially filed. However, we are not in favour of such a course of action to be followed.

. Instead, it would in order for the review petitioners to file a fresh petition on the Original Side which may be considered on its own merits, including the issue of its maintainability.

. Hence the review petition is partly allowed and the order dated 8/4/2004 passed in Writ Petition

No.7805 of 2003 is hereby recalled and in its place the said petition is disposed off as withdrawn with liberty to the petitioners to file a fresh petition on the Original Side of this Court.

(V.M.KANADE,) (B.H.MARLAPALLE,J.)